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In re Application of  
Allington et al.  
Application No. 10/082,710  
Filed: February 25, 2002  
Attorney Docket No. 18-587-9-1

OFFICE OF PETITIONS  
Decision on Petition

This a decision on the petition under 37 CFR 1.181, filed December 20, 2004, requesting a refund of \$43. Petitioner asserts the \$43 was charged in error to petitioner's deposit account.

The petition is granted.

The application was filed on February 25, 2002. The application had a total of six independent claims. Petitioner was charged for 3 excess independent claims.

On April 29, 2004, an amendment was filed. An Office employee determined seven independent claims were present. Petitioner's deposit account was charged \$43 for the seventh independent claim. Petitioner contends only six independent claims were present.

On September 24, 2004, an amendment was filed. The amendment contained a total of 10 independent claims. Petitioner was charged \$172 for extra independent claims.

A review of the file supports petitioner's assertion that only six independent claims were present on April 29, 2004. However, even if seven independent claims had been present on April 29, 2004, petitioner would be entitled to a refund of \$43. Petitioner was charged for a total of 8 independent claims. At no time during prosecution did the application contain 11 independent claims. If seven claims were present on April 29, 2004, then petitioner would have only owed \$129 on September 24, 2004, instead of \$172. In other words, the Office either overcharged petitioner \$43 on April 29, 2004, or overcharged petitioner \$43 on September 24, 2004.

The fee of \$43 has been credited to petitioner's deposit account.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

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Office of Petitions